Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE VIII. WELLFIELD PROTECTION *

** Editor's note: This article consists of the wellfield protection ordinance, G.O. 57, 1995, as amended by G.O. 204, 1995; G.O. 205, 1995; G.O. 178, 1996, adopted Dec. 16, 1996; G.O. 34, 1997, adopted Mar. 17, 1997; G.O. 76, 1998; and G.O. 54, 1998, adopted Apr. 6, 1998. Future amendments will be indicated by a parenthetical history note following the amended section.*

Sec. 735-800. Establishment of official zoning map; establishment of wellfield protection districts.

(a) Establishment of the official zoning map.

(1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.

(2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.

(3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.

(4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of wellfield protection districts. The following secondary Wellfield Protection Zoning Districts for Marion County, Indiana, are hereby established, and land within the county is hereby classified, divided and zoned into such districts as designated on the official zoning map.

Wellfield Protection Zoning Districts	Zoning District Symbols
One Year Time-of-Travel Protection Area (secondary)	W-1
Five Year Time-of-Travel Protection Area (secondary)	W-5

(c) Studies and evaluations of the W-1 and W-5 districts. The W-1 and W-5 districts shall be reevaluated by the Department of Metropolitan Development, with input from a committee including representatives from the Department of Public Works, the Department of Metropolitan Development, Health and Hospital Corporation of Marion County, Indiana, and applicable water utilities, no less frequently than every five (5) years to determine scientific reasonableness of the districts' maps.

(d) Reports.

(1) The Department of Metropolitan Development shall provide progress reports on the studies and evaluations as required in subsection (c) above to the chairman of the Metropolitan Development Committee of the City-County Council, the Board of Public Works and to the Commission, the first of which reports shall be within thirty (30) days of the initiation of the study provided for in subsection (c) above, and thereafter such reports shall be provided on a quarterly basis.

(2) Every water utility having a wellfield within a W-1 or W-5 district shall on or before January 15, 1998, prepare and file with the chairman of the Metropolitan Development Committee of the City-County Council, the Board of Public Works, the Commission and the Health and Hospital Corporation of Marion County the water utility's water quality monitoring plan for that year, including therein a description of the program designed to alert the water utility of any potential contamination of the groundwater underlying each of the water utility's wellfields. Any amendment to such plan by a water utility shall be filed within thirty (30) days of that amendment with the chairman of the Metropolitan Development Committee of the City-County Council, the Board of Public Works, the Commission, and the Health and Hospital Corporation of Marion County.

(G.O. 31, 2001, § 12; G.O. 2, 2002, § 25; G.O. 91, 2003, § 1; G.O. 49, 2004, §§ 1—4; G.O. 21, 2010)

Sec. 735-801. General regulations.

The following regulations shall apply to all land within the Wellfield Protection Zoning Districts. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

(a) Applicability of regulations. The following regulations shall apply to all land within the Wellfield Protection Zoning Districts, with the exceptions of single- and multi-family residential land uses. After the effective date of this article: No building, structure, premises or part thereof shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed site and development plan has been filed with and approved on behalf of the Commission by a technically qualified person. Such request shall be in the form of an application for an Improvement Location Permit, following all requirements for plan submission and documentation of section, 730-300 et seq. of this Code and shall contain the information specified in section 735-802(c)(1) through (12).

(b) Development plans required.

(1) In the W-1 district or the W-5 district, a site and development plan is required to be filed with and approved on behalf of the Commission by the technically qualified person for any of the land uses listed in subsection (b)(2) below when an Improvement Location Permit is required. However, those listed land uses in the W-1 district that, in their ordinary course of business, have less than the threshold amount of one (1) gallon of liquids in the aggregate or six (6) pounds of water soluble solids in the aggregate and those land uses in the W-5 district that, in their ordinary course of business, have less than the threshold amount of one hundred (100) gallons of liquids in the aggregate or six hundred (600) pounds of water soluble solids in the aggregate on site are excluded from this site and development plan requirement. In determining thresholds, the following substances shall be exempted:

a. Reasonable quantities of substances used for routine building and yard maintenance stored inside a facility.

b. Liquids required for normal operation of a motor vehicle in use in that vehicle.

c. Substances contained within vehicles for bulk deliveries to the site.

d. Beverages and food at restaurants, supermarkets, convenience stores, and other retail food establishments.

e. Uncontaminated public water supply water, groundwater and/or surface water.

f. Substances, which are packaged in pre-sealed containers, sold at retail establishments.

g. Substances utilized for the production and treatment of public water supply.

h. Substances which, because of their inherent properties, are determined from time to time by the technically qualified person to pose no significant threat to groundwater.

(2) Land uses requiring a site and development plan approval. (Development associated with the land uses listed below, but used exclusively for offices, does not require a site and development plan.)

Primary land uses:

Agricultural chemical storage

Animal feedlots or stockyards

Asphalt or tar production

Automotive supplies distribution

Blast furnaces, steel works, rolling or finishing mills

Building cleaning or maintenance services company

Building materials production

Car or truck wash

Chemical or petroleum storage or sales

Chemical, blending or distribution

Clay, ceramic or refractory minerals mining or quarrying

Construction contractors' equipment or materials storage

Creosote manufacturing or treatment

Dry cleaning plants or commercial laundries

Educational, engineering or vocational shops or laboratories

Electroplating operations or metal finishers

Equipment repair

Fat rendering

Food or beverage production (excluding restaurants, catering and other retail food establishments)

Furniture or wood strippers, refinishers

Fuel dispensing facilities

Golf courses or driving ranges

Hazardous waste treatment, storage or disposal

Hospitals

Laboratories: medical, biological, bacteriological, chemical

Landscape or lawn installation or maintenance service (commercial)

Large institutional uses: convalescent or nursing homes, correctional or penal institutions, schools, colleges or universities

Leather tanning or finishing

Limestone, sand or gravel mining or quarrying

Machine, tool or die shop

Manufacture of:

Autos or trucks

Cement

- Chemicals or gases
- Colors, dye, paint or other coatings
- Communication equipment
- Detergents or soaps
- Explosives, matches, or fireworks
- Glass or glass products
- Light portable household appliances; electric hand tools; electrical components or subassemblies; electric motors; electric or neon signs
- Machinery, including electrical or electronic machinery; or equipment or supplies (circuits or batteries)
- Major electric or gas household appliances
- Marine equipment
- Musical instruments
- Office machinery, electrical or mechanical
- Paper, paper box or paper products
- Recording instruments
- Tools or implements, machinery or machinery components
- Wood products

Materials transport or transfer operations (truck terminals)

Metal mining

Mortuary or other embalming services

Motor or body repair: auto, truck, lawnmower, airplane, boat, motorcycle

Municipal waste landfill or transfer station

Oil or gas production wells

Oil or liquid materials pipelines

Painting or coating shops (utilizing liquids or water soluble solids)

Pesticide or fertilizer application services

Petroleum refining

Photographic processing facilities

Printing industries (utilizing liquid inks)

Radioactive waste handling or storage

Road salt storage

Rubber or plastics processing or production

Scrap or junk yards

Slaughterhouse or meat packing

Sludge treatment or disposal

Solid waste treatment, storage or disposal (involving potential groundwater contaminants)

Stamping or fabricating metal shops using press, brakes, or rolls

Textile production

Warehousing of potential groundwater contaminants

Wastewater treatment facilities

Wood preservers or treaters

Accessory land uses:

Car or truck wash (if an underground storage tank is used)

Dry cleaning plants (if forty (40) gallons or more of petroleum or chlorinated solvents are used or stored in a single container on-site)

Motor or body repair: auto, truck, lawnmower, airplane, boat, motorcycle (if fifty-five (55) gallons or more in aggregate of petroleum or chlorinated solvents are used or stored on-site)

Fuel dispensing facilities

Outdoor road salt storage (if over one (1) ton in bulk)

(3) Where an existing use is being expanded, the site and development plan shall generally describe the entire site but only the expansion development is subject to review. Only those chemicals to be used, stored, or handled in the expanded area shall be calculated in determining threshold amounts.

(c) Commitments. The Commission may permit or require commitments.

(d) State statutory basis. The applicable Indiana Planning and Zoning Laws pertaining to this article are the 1) 1400 Series - Development Plans of IC 36-7-4 and; 2) 600 Series - Zoning Ordinance (IC 36-7-4-600. Regulations contained in, and revisions to, this article reflect the provisions of the 1400 Series - Development Plans, and the 600 Series - Zoning Ordinance.

(G.O. 2, 2002, § 25; G.O. 91, 2003, § 1; G.O. 21, 2010)

Sec. 735-802. Wellfield Protection District regulations.

Statement of purpose. Because of the risk that certain chemicals pose to groundwater quality, it is recognized that the further regulation of the use and storage of such chemicals related to land use activities is essential in order to preserve public health and economic vitality within Marion County.

(a) Permitted Wellfield Protection District uses. All land uses permitted in the applicable underlying zoning districts shall be those allowed in the W-1 and W-5 Overlay Districts.

(b) Site and development plan consideration. Upon the application for an improvement location permit, the technically qualified person, on behalf of the metropolitan development Commission, shall consider and either approve, disapprove, or approve subject to any conditions, amendments, or commitments, the proposed site and development plan. Comments from the Health and Hospital Corporation of Marion County and applicable water utilities shall be solicited by the technically qualified person prior to approval of a site and development plan, and if such comments are provided timely by the Health and Hospital Corporation or applicable water utilities, the technically qualified person shall consider them and may give them such weight as he or she shall determine to be appropriate.

(c) Plan documentation and supporting information. The site and development plan shall include:

(1) Any existing uses*

(2) Setbacks*

(3) Landscaping, screens, walls, fences*

(4) Sewage disposal facilities*

(5) Vicinity map (U.S.G.S. quadrangle preferred)

(6) Brief history of site of new building or addition (usage, historical environmental concerns, abandoned wells, underground storage tanks, septic tanks)

(7) Site map (drawn to scale) including:

- All existing and proposed structures*

- Paved and nonpaved areas*

- Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)

  - Floor drain locations and outlets
  - Chemical/product storage locations
  - Waste storage locations
  - Liquid transfer areas
  - Site surface water bodies (streams, rivers, ponds)*
  - Underground storage tanks
  - Aboveground storage tanks

(8) Proposed containment area detail drawings--area, heights, materials, specifications, if applicable

(9) Description of proposed operations including chemicals/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures, heating source (oil/gas), liquid transfer/loading areas.

(10) Methods and locations of receiving, handling, storing, and shipping chemicals/products and wastes.

(11) Response measures and reporting.

(12) Description of slopes near containment vessels and waste storage areas*

Such site and development plan shall be provided to the Health and Hospital Corporation of Marion County and applicable water utilities when sent to the technically qualified person.

* Information required by Chapter 730, Article III, Improvement Location Permits.

(d) Site and development requirements. Land in the W-1 and W-5 Districts is subject to the following site and development requirements. In review of the proposed site and development plan, the technically qualified person shall assess whether the site and development plan:

(1) Is consistent with the Comprehensive Plan of Marion County, Indiana.

(2) Will prevent potential groundwater contaminants associated with human activity from interfering with each community public water supply system's ability to produce drinking water that meets all applicable federal primary drinking water standards after undergoing conventional groundwater treatment.

(3) Will not pose an unreasonable risk to groundwater within a designated wellfield protection area.

(4) Complies with subsection (h) of this section.

The technically qualified person shall consider and act upon any such proposed site and development plan; and may approve the same in whole or in part, or impose additional conditions, or commitments thereon. (It is the intent of this article that review of site and development plans be done in an expeditious manner. Generally this review would occur within fourteen (14) days from receipt of plan documentation and supporting information required in subsection (c) of this section.

(e) Public notice. Public notice of the filing of an application under this section and public notice of the decision by the Department of Metropolitan Development relative to such application shall

not be required because this application is being treated as an improvement location permit application.

(f) Staff approval.

(1) Standards for review and disposition. The technically qualified person shall be required to use the standards of subsections (d) and (h) of this section in the review and disposition of such plans.

(2) Appeal of staff approval. Any party of interest or aggrieved person shall have the right to appeal action by the technically qualified person before the metropolitan development Commission to approve or disapprove a site and development plan. Such appeal shall be filed as an approval petition within ten (10) business days of approval or denial of the approval as specified in, and following, the rules of procedure of the metropolitan development Commission.

(3) Commission findings. The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this subsection (d) above. The president or secretary of the Commission shall be responsible for signing the written findings.

(4) Public information. The decision of the technically qualified person to approve or disapprove a site and development plan and the file on which the decision is based are public records and are available for examination by any person. The department of metropolitan development shall, within two (2) business days of the decision, send by fax a summary of the decision (including the docket number of the case, the address, a summary of the request, any waivers granted, and a summary of the action taken by the technically qualified person) to:

a. Members of the city-county council;

b. The president of the Marion County Alliance of Neighborhood Associations, Inc.

c. Indianapolis Chamber of Commerce.

d. Health and Hospital Corporation of Marion County.

e. Applicable water utilities.

The validity of the decision of the technically qualified person shall not be affected by any failure to comply in all respects with this public information provision.

(g) Improvement location permit requirements. No building or structure shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated in the Wellfield Protection Districts of Indianapolis, Marion County, Indiana, without an Improvement Location Permit, and such permit shall not be issued until the proposed site and development plan, if required in section 735-801(b), has been approved in accordance with this section.

(h) Development standards. In addition to the site and development requirements of subsection (d) of this section, all development within the W-1 and W-5 Districts shall be reviewed by the technically qualified person for conformity with the following requirements:

(1) Prior to approving a site and development plan, a technically qualified person may:

a. Impose conditions or require commitments to protect the groundwater supply in addition to the requirements stated in subsection (h)(2) of this section.

b. Substitute conditions or commitments that protect the groundwater supply for one (1) or more of the requirements in subsection (h)(2) of this section.

c. Waive one (1) or more of the requirements in subsection (h)(2) of this section (notice of the proposed issuance or granting of any such waiver shall be provided

to the Health and Hospital Corporation of Marion County and the applicable water utilities).

In determining whether conditions or commitments should be made applicable, in determining whether conditions and commitments should be substituted for requirements, and in determining whether requirements should be waived, the risk to the groundwater supply posed by the development and the costs of various methods of protecting the groundwater supply shall be considered. The technically qualified person shall make findings supporting the substitution of conditions or commitments for requirements or the waiver of requirements.

(2) Land in the W-1 and W-5 Districts is subject to the following requirements:

a. All known abandoned wells shall be identified and sealed in accordance with applicable law.

b. No surface impoundments, ponds, or lagoons shall be established except for:

1. Stormwater detention and retention ponds; and

2. Recreation or landscaping purposes.

c. In the W-1 District, detention and retention ponds shall meet one (1) of the following criteria:

1. They are constructed in a manner that provides an effective barrier to the migration of potential groundwater contaminants into the groundwater; or

2. There are existing developed site features, including the location of the proposed pond, to prevent the migration of potential groundwater contaminants into the groundwater.

d. The development shall be connected to municipal sanitary sewers or combined sewers. Floor drains, if present, must be connected to sanitary sewers or combined sewers or routed to a temporary holding area for removal.

e. All trash dumpsters shall be located on hardsurfaced areas that drain to storm sewers or combined sewers.

f. All areas that may be used for the storage of potential groundwater contaminants shall be constructed in a manner to prevent a release from the storage area from reaching the groundwater.

g. All vehicle or equipment repair and shop areas shall be located within an enclosed building that includes a floor constructed of material that forms an effective barrier to prevent the migration of fluids or other materials into the groundwater.

h. The following restrictions apply to new, outdoor storage areas only in the W-1 District:

1. No aboveground storage tank of liquid (for underground storage tanks see requirement m.) of greater than one thousand (1,000) gallons is allowed.

2. No storage of water soluble solids of more than six thousand (6,000) pounds per container is allowed in any one (1) containment area.

3. Restrictions of 1. and 2. above may be waived by the technically qualified person if the tanks or other storage container is at least two hundred (200) feet from a public water supply system (PWSS) well, is above ground, and is located where at least twenty-five (25) feet or a suitable thickness of naturally occurring or compacted low permeability fine grained materials overlie the aquifer used by the PWSS.

i. Except for fuel stored in accordance with subsection (h)(2)n. at a fuel dispensing facility, all tanks holding more than forty (40) gallons of liquids for more than twenty-four (24) hours must be in a location or containment area capable of preventing any release from the tank from reaching the groundwater table. A containment area capable of containing one hundred ten (110) percent of the largest such tank in that location would satisfy this requirement.

1. The containment area shall be constructed to meet at least one (1) of the following requirements:

(a) A secondary containment structure designed to prevent and control the escape or movement of potential groundwater contaminants into groundwater for a minimum period of seventy-two (72) hours before removal; or

(b) A storage tank designed and built with an outer shell and a space between the tank wall and the outer shell that allows and includes interstitial monitoring.

2. Where practical, the secondary containment structure shall be designed to allow drainage or pumping into a holding area designed to contain the discharge until it can be properly removed.

3. The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure.

4. Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.

j. While being stored, water soluble solids must be kept dry at all times.

k. Sludges that could release liquids or water soluble solids must be contained so that neither could enter the groundwater.

l. The transfer area for the bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:

1. The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the groundwater.

2. The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the area.

m. In the W-1 District, existing underground storage tanks (USTs) may be replaced or upgraded only in accordance with requirement n. Replacements and upgrades to existing USTs at fuel dispensing facilities are not subject to the volume limitations. No other new USTs are permitted in the W-1 District.

n. In the W-1, the following requirements apply only to fuel dispensing facilities, or replacement or upgraded USTs as referenced in requirement m. For all other tanks, see requirement i.

1. Approved USTs shall be double walled.

2. Approved USTs shall include the following three (3) methods of release detection:

(a) Inventory control as defined in 40 CFR 280.43(a);

(b) Monthly 0.2 in tank leak test as defined in 40 CFR 280.43(d); and

(c) Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g).

3. Connected piping must include the following three (3) methods of release detection:

(a) Inventory control;

(b) Continuous detection for three-gallon per hour line leak, as specified in 40 CFR 280.44(a) except that automatic shutoff is required at ninety-five (95) percent tank capacity; and

(c) Double walled line that is continuously monitored to detect the presence of liquid in the interstitial space and provided an alarm as specified in 40 CFR 280.44c via 280.43g.

o. In the W-5 District, the requirements of 40 CFR Part 280 apply to existing, registered USTs that are replaced or upgraded and USTs installed at new fuel dispensing facilities. In addition, the construction standards of 40 CFR Part 280, applicable to nonpetroleum USTs, shall be applicable to the following in the W-5 District:

1. Such a tank that is covered by state or federal hazardous waste regulations;

2. Heating oil tanks for on-site use;

p. The following requirements apply to all excavation activities associated with the removal of sand and gravel materials:

1. If the extraction of sand and gravel involves the removal of materials below the normal groundwater level, the work shall be accomplished by way of a dragline, floating dredge, or an alternative "wet" excavation method.

2. There shall be no dewatering of sites utilized for sand and gravel extraction.

3. No form of solid waste, sludge, or any other form of waste material of any kind, including, but not limited to, construction/demolition debris, shall be used on the site. Clean natural earth fill materials may be used without restriction as to origin or placement on site.

4. All fuels, oils, lubricants, hydraulic fluids, petroleum products or other similar materials on site shall be secondarily contained.

q. Dewatering of sites shall be permitted only for the following purposes:

1. To prevent water damage to structures; and

2. To protect groundwater quality; and

3. The temporary dewatering for the construction of sewers and other underground facilities, including foundation structures.

r. Class V injection wells (as defined in 40 CFR 146) shall be prohibited with the exception of the following:

1. Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump, if noncontact; and

2. Cooling water return flow wells used to inject water previously used for cooling, if noncontact; and

3. Barrier recharge wells used to replenish the water in an aquifer or to improve groundwater quality, provided the injected fluid does not contain potential groundwater contaminants; and
4. Wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power, if noncontact.

(G.O. 91, 2003, § 1; G.O. 96, 2009; G.O. 21, 2010)

Sec. 735-803. Construction of language and definitions.

(a) Construction of language. The language of this article shall be interpreted in accordance with the following regulations:

(1) The particular shall control the general.

(2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram, the text shall control.

(3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(4) Words used in the present tense shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(5) A "building" or "structure" includes any part thereof.

(6) The phrase "used for" includes "arranged for," "designed for," "intended for," maintained for," or "occupied for."

(7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

c. "Either . . . or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) Definitions. The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

Abandoned well. A well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

Aboveground storage tank. Any one (1) or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of potential groundwater contaminants and the volume of which (including the volume of underground pipes connected thereto) is less than ten (10) percent beneath the surface of the ground. Flow-through process tanks are excluded from the definition of aboveground storage tanks.

Approved underground storage tank. A stationary device designed to contain an accumulation of potential groundwater contaminants and constructed of nonearthen materials, for example, steel or fiberglass, which has been approved for use by the Steel Tank Institute or the Fiberglass Petroleum Tank and Pipe Institute.

Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

Chlorinated solvent. Any liquid solution containing at least ten (10) percent of a chemical or chemicals classified as a chlorinated organic compound. If the concentration of the chlorinated organic compound in the liquid is not known, the entire volume of the liquid solution shall be considered to be a chlorinated solvent.

Commission. The Metropolitan Development Commission of Marion County, Indiana.

Commitment. An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

Condition. An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the technically qualified person.

Connected piping. All underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system.

Containment area. An aboveground area with floors and sidewalls that have been constructed of a material which will prevent migration of fluids into the groundwater.

Development plan. As enabled by 1400 Series--Development Plans IC 36-7-4-1400 through IC 36-7-4-1499.

Dewatering. Any removal of groundwater specifically designed to lower groundwater levels.

Disposal. Discharge, deposit, injection, dumping, spilling, leaking, or placing of any potential groundwater contaminants into or on any land or water.

Excavation. The breaking of ground, except common household gardening, ground care and agricultural activity.

Fuel dispensing facility. Any facility where gasoline or diesel fuel is dispensed into motor vehicle fuel tanks from an underground storage tank.

Groundwater. Any water occurring within the zone of saturation in a geologic formation beneath the surface of the earth.

Hardsurfaced. (Pertains to this article only.) Quality of an outer area being solidly constructed of asphalt, concrete, or other health and hospital corporation approved material.

Interstitial monitoring. A system designed, constructed and installed to detect a leak from any portion of a storage tank or connected piping that routinely contains potential groundwater contaminants by monitoring the space between the primary (inner) tank or connected piping and the secondary (outer) tank or connected piping.

Legally established nonconforming use. Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment, or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance to conform to the present requirements of the zoning district.

Liquid. A liquid is a substance or mixture which is fluid at twenty (20) degrees Centigrade (sixty-eight (68) degrees Fahrenheit).

Liquid transfer area. An off-street area maintained and intended for temporary parking of a commercial vehicle while transferring potential groundwater contaminant to and from a facility.

Permitted use. Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

Potential groundwater contaminant. Any material which, because of its toxicity and mobility in groundwater, poses a significant hazard to the quality of groundwater resources used for public water supply.

Premises. A platted lot or part thereof or unplatted lot or parcel of land, either occupied or unoccupied by any structure, and includes any such building, accessory structure, adjoining alley, easement, or drainage way.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (surface water, groundwater, drinking water supply, land surface, subsurface strata).

Shop area. A production or repair area equipped with tools and machinery.

Site plan. The plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed locations and conditions of the lot including as required by Chapter 730, Article III, Improvement Location Permits, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

Storage. The long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles, or junk.

Structure. A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

Surface impoundment. A natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

Tank. A tank is a stationary device designed to contain an accumulation of liquids and which is constructed of nonearthen materials, for example, concrete, steel, or plastic, that provides structural support.

Technically qualified person. A technically qualified person is either an employee of the Department of Metropolitan Development, or any person with whom the Department of Metropolitan Development has a services contract. Such technically qualified person is a person who is competent to evaluate site and development plans for contamination risk to groundwater quality. Examples of technically qualified persons include professional engineers, certified professional geologists and environmental and other scientists with specialized training and experience in hydrogeology, contaminant transport, and hazardous materials management.

Underground storage tank. Any one (1) or combination of tanks (including underground pipes connected thereto) that is regulated under 40 CFR Part 280. Notwithstanding the exceptions in 40 CFR Part 280, for the purpose of this article an underground storage tank also includes:

(1) A tank which would otherwise be regulated by 40 CFR Part 280 but for the fact that it contains hazardous waste as regulated under Subtitle C of the Federal Solid Waste Disposal Act.

(2) A tank which would otherwise be regulated by 40 CFR Part 280 but for the fact that it is used to store heating oil for consumptive use on the premises where stored.

Vehicle or equipment repair area. An area designated, designed and intended for the purpose of repairing automotive vehicles or equipment.

Well. A bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

(G.O. 2, 2002, § 26; G.O. 21, 2010)

Sec. 735-804. Groundwater protection.

(a) Groundwater protection fund. There is created a groundwater protection fund, funds from which shall be used only for those specific activities identified in subsection (c) below.

(b) Groundwater protection fee. Each public water supply system that pumps groundwater from one (1) or more wells located within a W-1 or W-5 District shall pay into the groundwater protection fund a percentage of the annual fee assessed by the Commission, such percentage to be determined by dividing the number of customers served by the water supply system at the end of the calendar year by the total number of customers served at the end of the calendar year by all public water supply systems that pump from one (1) or more wells within a W-1 or W-5 District. The annual fee assessed by the Commission for any calendar year shall be based on the Commission's approved budget for the specific activities identified in subsection (c) below, but shall not exceed two hundred thousand dollars ($200,000.00). Within thirty (30) days following the approval of the Commission's budget for the specific activities described in subsection (c) below during the following year, the Commission shall notify the public water supply systems that pump groundwater from one (1) or more wells located within a W-1 or W-5 District as to the amount of the annual fee to be assessed all such systems for the following year. Each public water supply system subject to this article that pumps groundwater from one (1) or more wells within a W-1 or W-5 District shall report, in writing, to the Commission on or before January 31 of each year, the number of customers served at the end of the prior calendar year. On or before March 1 of each year, the Commission shall determine the amount of the annual fee to be assessed and notify each of the water supply systems that pumps groundwater from one (1) or more wells within a W-1 or W-5 District as to the portion of such annual fee to be paid by such public water supply system. The public water supply system shall pay the full amount of its portion of the annual fee assessed by the Commission on or before March 15 of each year.

(c) Groundwater protection costs. The funds in the groundwater protection fund shall be used solely to pay for:

(1) Administrative costs incurred in the implementation of this article;

(2) Study costs incurred in accordance with the provisions of section 735-800(a); and

(3) Costs incurred in establishing and maintaining a wellfield education and registration program.

(G.O. 91, 2003, § 2; G.O. 21, 2010)

Sec. 735-805. Severability.

If any provision of this article shall be held invalid, its invalidity shall not affect any other provisions of this article that can be given effect without the invalid provision, and for this purpose the provisions of this article are hereby declared to be severable.

Sec. 735-806. Compliance.

This article shall be in full force and effect upon its adoption in compliance with IC 36-7-4.